

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36896

STATE OF IDAHO,)	2010 Unpublished Opinion No. 554
)	
Plaintiff-Respondent,)	Filed: July 20, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
WILLIAM DONALD WOOD,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. G. Richard Bevan, District Judge.

Order relinquishing jurisdiction and order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Heather M. Carlson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; GUTIERREZ, Judge;
and GRATTON, Judge

PER CURIAM

William Donald Wood pled guilty to attempted strangulation. Idaho Code §§ 18-923, 18-112A. The district court imposed a unified eleven-year sentence with a five year determinate term, suspended the sentence and placed Wood on supervised probation for a period of four years. Subsequently, Wood admitted to violating several terms of the probation, and the district court consequently revoked probation, ordered execution of the original sentence and retained jurisdiction. Following the period of retained jurisdiction, the district court relinquished jurisdiction. Wood also filed an Idaho Criminal Rule 35 motion, which the district court denied. Wood appeals, contending that the district court abused its discretion by relinquishing jurisdiction, and denying his Rule 35 motion.

The decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Wood has failed to show that the district court abused its discretion.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including any new information submitted with Wood's Rule 35 motion, we conclude no abuse of discretion has been shown.

Therefore, the district court's orders relinquishing jurisdiction and denying Wood's Rule 35 motion, are affirmed.